

COMMUNICATION

The following is in response to Appellant's Reply Brief and Request for Oral Hearing, both submitted 02 January 2009.

1) The Board's attention is directed to the decision in Appeal Number 20084086. This decision was rendered in an application sharing several inventors and the assignee with the instant application, and is based on a nearly identical fact pattern. Therefore, it is deemed to be a related appeal. The decision in the related appeal was mailed 31 December 2008, and thus was not available at the time of the writing of the examiner's answer in this application.

2) The reply brief filed 02 January 2009 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

3) Appellant's request for an oral hearing (received 02 January 2009) is noted. The examiner requests the opportunity to provide oral arguments at the hearing as well.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth C. Kemmerer, Ph.D. whose telephone number

is (571) 272-0874. The examiner can normally be reached on Monday through Friday, 9:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol, Ph.D. can be reached on (571) 272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ECK/
20 February 2009

/Elizabeth C. Kemmerer/
Elizabeth C. Kemmerer, Ph.D.
Primary Examiner, Art Unit 1646